

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

GEORGE IVERSON, individually,

Plaintiff,

v.

CIVIL ACTION NO.: 04-CV-12079 NG-JLA

BRAINTREE PROPERTY ASSOCIATES, LIMITED
PARTNERSHIP, a Massachusetts limited partnership,

Defendant.

PLAINTIFF'S RULE 26 (a)(2) EXPERT WITNESS DISCLOSURE

Plaintiff, George Iverson and , by and through undersigned counsel, file their Expert Witness Disclosures pursuant to Rule 26 (a)(2) of the Federal Rules of Civil Procedure.

The following individuals have been retained by the Plaintiff to provide expert testimony in the above matter. Their resumes are attached hereto. The Plaintiff reserve the right to supplement the initial expert report attached hereto, pursuant to Fed.R.Civ.P. 26 (a)(2)(B), with a final report after a formal inspection of the property is completed.

1. Mr. William Norkunas
ADA Help, Inc.
6103 Umbrella Tree Lane
Tamarac, FL 33319

Mr. Norkunas will testify as the Plaintiff's expert on Title III of the Americans with Disabilities Act ("ADA"), its regulations and guidelines, and their application to the facilities and businesses that are the subject of the instant lawsuit. Mr. Norkunas will provide testimony regarding the substance and application of the ADA regulations and accessibility guidelines to the subject facilities. The subject matter of his opinion testimony will be to

identify the ADA violations on the property. The initial report of the violations existing on the property is attached hereto, pursuant to Fed.R.Civ.P. 26 (a)(2)(B). A final report will be forthcoming upon the Plaintiff undertaking an inspection of the property under Rule 34 Fed.R.Civ.P.

Mr. Norkunas may also provide rebuttal testimony to that provided by Defendant's experts. It is not possible to disclose the substance of this testimony at this time as Defendant has not yet disclosed in detail the nature of its experts' testimony, and it has not provided Plaintiff with a completed detailed report from said experts. Expert, William Norkunas of A.D.A. Compliance Team, Inc. is compensated at the rate of \$175 per hour.

2. Gary W. Dix, C.P.A., C.V.A
Mallah, Furman & Company, P.A.
1001 South Bayshore Drive, Suite 1400
Miami, Florida 33131

Gary Dix is a licensed, certified public accountant and is expected to testify as to the financial ability of the Defendant to bring the property into ADA compliance. Mr. Dix may also provide rebuttal testimony to that provided by Defendant's experts. It is not possible to disclose the substance of this testimony at this time as Defendant has not yet disclosed in detail the nature of its experts' testimony, and it has not provided Plaintiff with a completed detailed report from said experts. Expert, Gary W. Dix of Mallah, Furman & Company, P.A. is compensated at the rate of \$300 per hour.

Qualifications of said experts are attached hereto, pursuant to Fed.R.Civ.P. 26 (a)(2)(B).

Plaintiff reserve their right to supplement and modify these witness disclosures to the extent allowed by the Court and the applicable rules.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed on this November 16, 2004 to:

Jennifer Martin Foster, Esq.
Greenberg Traurig LLP
One International Place
Boston, MA 02110
Tel.: (617)310-6000
Fax: (617)310-6001

The Plaintiff by his Attorney:
FULLER, FULLER & ASSOCIATES, P.A.
12000 Biscayne Blvd., Suite 609
North Miami FL 33181
Tel.: (305)891-5199; Fax: (305)893-9505
FFA@fullerfuller.com

By:

Oliver Wragg, Esq. (BBO #643152)
Of Counsel

OOW:jl (jyl@fullerfuller.com)

3586MA SR (jl 11-16-04).wpd

WILLIAM NORKUNAS

6103 Umbrella Tree Lane

Tamarac, FL 33319

(V) 954-484-7149 / (F) 954-484-3539 / billnorkunas@msn.com

www.adahelp.com / 1-888-323-2005

1. Bill is familiar with all aspects of the Americans with Disabilities Act (the "ADA").
2. He was educated at Merrimack College; Harvard University, Graduate School of Design; University of Wisconsin, College of Engineering.
3. Mr. Norkunas has been involved in ADA compliance projects relating to (partial listing only) Hotels, Motels, Restaurants, Theaters, Convention Centers as well as city, county and state government ADA accessibility and compliance studies; has developed ADA audits for historic landmarks such as *The Alamo* in San Antonio and the *Plymouth Rock Plantation* in Massachusetts, presented in its original 1624 configuration, yet now accessible to individuals with disabilities. Bill has conducted in excess of 2,000 ADA Compliance Surveys/Audits in multiple states. He has participated in national ADA workshops and conventions since January 26, 1992, the effective date of the ADA. He is a regular contributor to both print and television media on disability issues in the United States;

Additionally, he has held the following positions:

- a) President/CEO, 1992 to present, ADAhelp, Inc., with offices in Florida and Massachusetts. He is the founder and a director of this corporation assisting small businesses, major corporations, City, County and State Governments in understanding their rights and obligations under the ADA, specializing in issues of compliance with federal and state disability laws; he is certified by the Federal Courts as an Expert on the ADA
- b) Research Director, 1988 to 1990. Worked with congressional staffers and committees to develop the framework for the ADA, i.e. the Committee on Education and Labor, the Committee on the Judiciary, the Committee on Public Works and Transportation, and the Committee on Energy and Commerce;
- c) Bill is immensely proud to have carried the Olympic Torch through Ft. Lauderdale in 1996;
- d) In 1997, he was appointed by the Governor of Florida to the Human Rights Advocacy Committee. His responsibilities include protection and advocacy for those with mental health disabilities;

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EXHIBIT

Expert

- e) He serves as the ADA Advisor to the United Way of Broward County, providing ADA and accessibility guidance to 48+ agencies.
- f) He is the ADA Consultant to the State of Florida, Department of Transportation, Walk Florida Initiative, to the City of Fort Lauderdale, to the City of Plantation, and to the County of Okeechobee, Florida.
- g) He serves as the ADA Advisor to the Girl Scouts, providing disability guidance and awareness to over 8,000 Scouts;
- h) Bill serves on the Board of Directors of the March of Dimes, and Florida Ocean Sciences Institute, a Broward Circuit Court founded non-profit youth development Agency for troubled teens, and is a golf coach for Florida Special Olympics;
- i) He provides ADA guidance and advice to the Miami Herald's Action Line column and is a featured columnist on the ADA and disability issues;
- j) Bill was personally appointed by the U.S. Secretary of the Treasury Robert Rubin in June of 1998 to the Secretary's Citizens Advocacy Panel to assist in the Department's re-organizing of the IRS. He was re-appointed by Treasury Secretary Lawrence Summers in October 2000 to a second term.

Partial Reference List:

ADA ADVISOR TO THE CITY OF FORT LAUDERDALE / STATE OF FLORIDA, DOT,
WALK FLORIDA INITIATIVE / CITY OF PLANTATION, FLORIDA / COUNTY OF
OKEECHOBEE, FLORIDA / RED ROOF INNS OF AMERICA
AMC MOVIE THEATERS / SEGA Gameworks / FEDERATED DEPARTMENT STORES
J.C. PENNY / MAYS DEPARTMENT STORES / BURDINES / KFC RESTAURANTS
ORLANDO REGIONAL MEDICAL CENTER / MARTIN MEMORIAL HOSPITALS /
MAYOR'S JEWELERS / TONY ROMA'S RESTAURANTS / BENNIGAN'S RESTAURANTS
EMBASSY SUITES HOTELS / FAIRFIELD INNS / BEST WESTERN HOTELS
SHERATON HOTELS / PARKER PLAYHOUSE / MARRIOTT HOTELS
MARRIOTT, COURTYARD & FAIRFIELD INNS / HOLIDAY INN HOTELS & MOTELS
LEXUS & TOYOTA AUTOMOBILE DEALERSHIPS / HOWARD JOHNSON HOTELS
MIAMI DOLPHINS' PRO PLAYER STADIUM / SEARS
SAWGRASS MILLS / POMPANO FASHION SQUARE / AMERICAN EXPRESS TRAVEL
JIM TERRY, EVAN TERRY ASSOCIATES / JOHN SALMEN, UNIVERSAL DESIGN,
KATHERINE MCGUINNESS, KESSLER MCGUINNESS & ASSOCIATES
LAW FIRMS OF SHUTTS & BOWEN / RUDEN, McCLOSKY / FISHER & PHILLIPS

GARY W. DIX, C.P.A, C.V.A PROFILE

Personal and Education:

Bachelor of Business Administration

Bernard Baruch College of the City University of New York - 1969

Professional Background:

Mallah, Furman and Company, P.A. - 1994

- Merged and named a Director in 1994

Silver, Dix and Hammer, C.P.A. - 1979 to 1993

- Founding partner of a local C.P.A. firm

Harris, Kerr, Forster & Company - 1975 to 1978

- Manager, Tax Department
- Responsible for tax planning and compliance

Deloitte, Haskins & Sells - 1970 to 1974

- Staff Accountant
- Two years on Audit Staff
- Two years on Tax Staff
- Promoted to Senior Accountant
-

Professional Experience:

A member of the Tax Department of Deloitte, Haskins & Sells and Harris, Kerr, Forster & Company.

As a Director at Mallah, Furman and Company, Mr. Dix has specialized in business consulting, valuations, financing arrangements and tax planning. Since 1997, Mr. Dix has been the Director in Charge of The Business Valuation Division of Mallah, Furman and Company, P.A.

The Firm's valuation engagements encompass family limited partnerships, real estate ventures, wholesale distributors, medical practices, other professional practices, restaurants and retail establishments.

EXHIBIT

Expert

GARY W. DIX, C.P.A, C.V.A.
PROFILE - Continued

Professional Licenses:

- Certified Public Accountant
- Certified Valuation Analyst

Outside Professional Activities:

Outside professional activities have included various seats on Board of Directors relating to the following:

- Member of the Board of Directors: Perry Ellis International, Inc., A NASD listed company; Chairman, Internal Audit Committee
- Member of the Board of Directors of the Dr. John T. Macdonald Foundation, Inc.
- Member of the Board of Directors of Westview Country Club
- Founding Shareholder and Director of the Universal National Bank, a Dade County Community Bank (sold in 1997)



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Americans with Disabilities Act

**Fuller, Fuller and Associates, P.A.
12000 Biscayne Blvd., Suite 609
North Miami, Florida 33181**

Re: South Shore Plaza

Parking

- 1. In this parking area, there are insufficient number of spaces designated for disabled use, in violation of Sections 4.1.2 and 4.6.1 of the ADAAG.**
- 2. The disabled used spaces do not have clear and level access aisles provided, violating sections 4.1.2 and 4.6.3 of the ADAAG.**
- 3. There is no accessible route from the parking areas to the facility, in violation of Sections 4.3.2, 4.6.2 and 4.6.3 of the ADAAG.**
- 4. There are no signs designating the disabled use spaces with van access on them in violation of Section 4.6.4 of the ADAAG.**
- 5. The signs designating the disabled use spaces are not posted at sufficient heights, in violation of Section 4.6.4 of the ADAAG.**
- 6. The ramps provided from the parking areas to the facility have slopes, in excess of the limits prescribed in Section 4.8 of the ADAAG.**
- 7. There are no proper handrails provided for the ramps from the parking**

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areas to the facility, in violation of Section 4.8.5 of the ADAAG.

8. The accessible parking spaces are improperly dispersed and marked as per US Code 23, Section 109D (striped in white and prominently outlined in blue), and in violation of section 4.6.2 of the ADAAG.
9. There is a passenger unloading area provided without designating an area for disabled use in violation of Section 4.6.6 of the ADAAG.

Entrance Access and Path of Travel

1. There are no accessible routes from the street, sidewalk and parking areas, violating Sections 4.3.2 4.5.2, 4.7.1 and 4.8.2 of the ADAAG.
2. The doors of the building entrances are fitted with inaccessible hardware at the facility, in violation of Section 4.13.9 fo the ADAAG.
3. There are ramps at the facility that do not have level landings and/or contain excessive slopes, side slopes or cross slopes in violation of Sections 4.8.2, 4.8.4 and 4.8.6 of the ADAAG.
4. There are curb ramps at the facility that project into vehicular areas and/or contain excessive slopes, side slopes or cross slopes, in violation of Sections 4.7.2, 4.7.5, 4.7.6 and 4.7.9 of the ADAAG.
5. There are rises at the thresholds of entrances at the facility in excess of 3/4 of an inch, violating Section 4.13.5 of the ADAAG.
6. The clear width and/or maneuvering clearances at doors to the facility are less than prescribed, violating Section 4.13.5 of the ADAAG.
7. There are stairs provided at the facility that do not comply with the standards prescribed in Section 4.9 of the ADAAG.
8. There are elevators provided at the facility that do not comply with the standards prescribed in Section 4.10 of the ADAAG.
9. There is not a continuous path of travel connecting all essential elements of the facility, violating Sections 4.3.1 and 4.3.1 of the ADAAG.
10. There is no means of emergency egress provided at the facility violating the requirements of Section 4.3.11 of the ADAAG.

Access to Goods and Services

1. There are protruding objects present throughout the facility, in violation of Section 4.4 fo the ADAAG.

2. There are permanently designated interior spaces without proper signage in violation of Section 4.30.6 of the ADAAG.
3. Several public telephones throughout the facility do not provide the prescribed volume control device and/or clear floor space for disabled patrons, in violation of Sections 4.31.1 and 4.31.2 of the ADAAG.
4. There are counters throughout the facility in excess of 36", in violation of Section 7.2(1) of the ADAAG.
5. There are self-service areas with dispensers whose controls are outside the reach ranges prescribed in Section 4.2 of the ADAAG.
6. There is insufficient clear floor space to access goods or services at the facility, in violation of several Sections of the ADAAG.
7. There is an ATM provided for public use that does not comply with the requirements of Section 4.34 of the ADAAG.

Restrooms

1. There are exposed pipes in restrooms at the facility, in violation of Section 4.19.4 of the ADAAG.
2. The sinks in the restrooms provided do not meet the requirements of ADAAG section 4.24.
3. The restroom door has improper hardware for disabled patrons, in violation of Section 4.13.9 of the ADAAG.
4. The clear floor space provided in the restroom violates the provisions of Sections 4.2.1, 4.18.3 and 4.22 of the ADAAG.
5. The toilet stalls provided for public use at the facility are in violation of Section 4.16 of the ADAAG.

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6. **The Mirrors provided for public use in the restrooms are in violation of the requirements in Section 4.19 of the ADAAG.**
7. **There are dispensers provided for public use in the restrooms with controls outside the ranges prescribed in Section 4.27 of the ADAAG.**